

FILED
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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ FEB 24 2020 ★

BANK OF THE WEST,

CASE NO.

LONG ISLAND OFFICE

Plaintiff,

CV 20 988
IN ADMIRALTY

- against -

GLASSER, J.

M/V ESCAPE, her engines, tackle, apparel,
appurtenances, etc., having Official No. 1202820
and Hull Serial No. MDNM8078B707, *in rem*; and
GREGORY BEIDER, *in personam*,

REYES, JR. M.J.

Defendant.

X

**COMPLAINT TO FORECLOSE A PREFERRED
SHIP'S MORTGAGE AND FOR DAMAGES**

THE COMPLAINT of BANK OF THE WEST, against the M/V ESCAPE, and her
engines, tackle, apparel, etc. *in rem*, and GREGORY BEIDER, *in personam* (hereinafter
referred to as "Defendants"), in a cause of enforcement of a First Preferred Ship's
Mortgage and of Contracts, civil and maritime, alleges upon information and belief:

1. This Court has jurisdiction of this matter, pursuant to 28 U.S.C. Section 1333
and 46 U.S.C. Section 31325.
2. This is an Admiralty and Maritime claim within the meaning of Fed. R. Civ. P.
9(h).
3. At all times relevant hereto, BANK OF THE WEST was, and still is, a banking
institution, organized and existing under the laws of the United States of America, with a
principal place of business at 2527 Camino Ramon, NC-BR7, San Ramon, CA 94583-
5172.

4. At times relevant hereto, the Defendant, M/V ESCAPE, is and was a vessel documented under the laws of the United States in the name of GREGORY BEIDER.

5. Upon information and belief, the Defendant vessel is presently berthed within the jurisdiction of this court.

6. Upon information and belief, the Defendant, GREGORY BEIDER, is a resident of Staten Island, New York, and is *sui juris*.

7. On or about July 13, 2007, Defendant GREGORY BEIDER purchased a certain 2007 Meridian 341 NSB, Hull Serial Number MDNM8078B707, said vessel being named ESCAPE and having Official No. 1202820.

8. In connection with the aforesaid purchase, the Defendant, GREGORY BEIDER, executed a Retail Installment Contract and Security Agreement on April 21, 2007, wherein said parties granted a security interest in and to aforesaid vessel, her engines, tackle, appurtenances and the like to MARINEMAX SURFSIDE 3 (A true and correct copy of the Retail Installment Contract and Security Agreement (the "Note") is attached hereto and incorporated herein as **EXHIBIT "A"**.)

9. On or about April 21, 2007, the Note and all related documents and interests were assigned to BANK OF THE WEST. (The Assignment is attached hereto as part of the Note **EXHIBIT "A"**).

10. In furtherance of the perfection of the security interest in and to the vessel, a First Preferred Ship's Mortgage was executed by Defendant GREGORY BEIDER, and was recorded on or about July 16, 2007, in Batch Number 596414, Document ID 7471104. (A true copy of the First Preferred Ship's Mortgage (the "Mortgage") is attached herein and incorporated herein as **EXHIBIT "B"**.)

11. Plaintiff presently owns and holds the Note and Mortgage. The original principal amount of said Installment loan Note and Mortgage was One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00), plus interest.

COUNT I

12. Plaintiff, BANK OF THE WEST, repeats and realleges each and every allegation contained in paragraphs "1" through "11", as if set forth at length herein.

13. Defendant GREGORY BEIDER defaulted upon his obligations pursuant to the Note and Mortgage by failing to make the payments due to Plaintiff BANK OF THE WEST since May 2019. (See demand letter from Plaintiff's counsel attached hereto and incorporated herein as **EXHIBIT "C"**.)

14. Plaintiff, BANK OF THE WEST, has elected, under the terms of the Note and Mortgage, to accelerate the remaining balance of \$97,840.13 as of December 12, 2019, and to declare said amount due and payable in full since Defendant GREGORY BEIDER has suffered and permitted the Defendant vessel to be run into debt.

15. Despite numerous demands for payment, no payment has been received.

16. All prerequisites to the maintenance of this action have been waived, performed or complied with.

17. The remaining principal balance and interest due the Plaintiff upon said obligation is \$97,840.13 as of December 12, 2019, together with currently accruing interest at the rate of \$16.23 per diem, and an amount due for attorney's fees, reasonable court costs, and repossession and any and all other costs relating to this foreclosure action all pursuant to the Note and Mortgage.

18. Plaintiff is obligated to pay its attorneys, TAROFF & TAITZ, LLP, a reasonable fee.

WHEREFORE, judgment is demanded in favor of Plaintiff, BANK OF THE WEST, against the Defendant vessel, ESCAPE, her engines, tackle, appurtenances, etc., for foreclosure of the Preferred Ship's Mortgage held by the Plaintiff against said vessel; and further that said vessel be sold as provided by law, free and clear of its liens and proceeds of said sale first applied to the costs of this action, costs of repossession and attorney's fees, and then to the principal and interest balance due, all according to the terms of the Note and Mortgage, as well as such other relief as may be just and appropriate under the circumstances.

COUNT II

19. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "18" as if set forth at length herein.

20. Pursuant to the terms of the Installment Note and Mortgage, Defendant GREGORY BEIDER obligated himself to pay the sum of \$150,000.00, plus interest, for and on behalf of and as consideration for the purchase of the vessel, ESCAPE, her engines, tackle, appurtenances, etc.

21. The payment due and owing to Plaintiff BANK OF THE WEST in the sum of \$97,840.13 has not been made, therefore the full balance owing to BANK OF THE WEST, thereon has been accelerated and declared due and owing by the Plaintiff pursuant to the terms and conditions of the Note and Mortgage.

22. All prerequisites to the maintenance of this action have been waived, performed or complied with.

23. The remaining principal balance due the Plaintiff upon said obligation, is \$97,840.13, as of December 12, 2019, including interest, together with currently accruing interest at the rate of \$16.23 per diem, reasonable attorney's fees, court costs and any and all other costs relating to this foreclosure action and/or repossession all pursuant to the terms of the Note and Mortgage.

24. Plaintiff has retained the law firm of TAROFF & TAITZ, LLP, and is obligated to pay them reasonable attorney's fees.

WHEREFORE, judgment is demanded in favor of the Plaintiff, BANK OF THE WEST, against the Defendant GREGORY BEIDER for the principal amount of \$97,840.13, plus interest; court costs; reasonable attorney's fee, and any and all costs relating to the foreclosure and/or repossession and/or default of the Note and Mortgage, all pursuant to the terms of the Note and Mortgage, as well as any deficiency judgment and any and all other relief that this Court deems just and appropriate under the circumstances.

Dated: Bohemia, New York
February 21, 2020

Yours, etc.

TAROFF & TAITZ, L.L.P.
Attorneys for Plaintiff BANK OF THE WEST
630 Johnson Avenue, Suite 105
Bohemia, NY 11716
(631) 475-4400

By: _____

Steven Taitz

TO:

GREGORY BEIDER
Defendant *in personam*
51 Braisted Avenue
Staten Island, NY 10314

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CASE NO.

BANK OF THE WEST,

Plaintiff,
IN ADMIRALTY
- against -
AFFIDAVIT

M/V ESCAPE, her engines, tackle, apparel,
appurtenances, etc., having Official No. 1202820
and Hull Serial No. MDNM8078B707, *in rem*; and
GREGORY BEIDER, *in personam*,

Defendant.
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STATE OF NEW YORK)
)
) SS.;
COUNTY OF SUFFOLK)

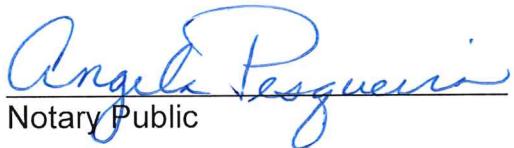
STEVEN TAITZ, being duly sworn, deposes and says:

1. I am a member of the law firm of TAROFF & TAITZ, LLP, the attorneys for the Plaintiff herein.
2. I have read the foregoing Complaint, know the contents thereof, and believe the same to be true to the best of my knowledge, information and belief.
3. The sources of my information and the grounds of my belief are the documents in my possession and statements and records furnished to me by the Plaintiff. I am authorized to act for the Plaintiff.

4. The reason that this verification is made by the attorney is that Plaintiff is a corporation with no offices or party within the district.


STEVEN TAITZ

Sworn to before me this
24th day of FEBRUARY, 2020


Notary Public

ANGELA PESQUEIRA
Notary Public, State of New York
No. 41-4773986, Suffolk County
Term Expires May 31, 2022